IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3392 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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GUJARAT AGRO INFRASTRUCTURE LTD.

Versus

CHIEF CONTROLLING REVENUE AUTHORITY

Appearance:

MR NAVIN K PAHWA for Petitioner No. 1

MR RV DESAI, AGP for Respondent No. 1-3

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 08/04/2002

ORAL JUDGEMENT

#. Rule. Mr.Desai, learned AGP waives service of rule for the respondents. With the consent of the parties, the matter is taken up for final hearing today.

#. Respondent No.2 - Deputy Collector passed the order which is at Annexure-A collectively - page 23 and 25. By

the impugned order, the Deputy Collector has asked the petitioner to pay the deficit stamp duty. The said order was challenged by the petitioner by filing the application under section 32-B for the purpose of waiving the condition of deposit of stamp duty. However, the appellate authority rejected the said prayer. The petitioner has, therefore, challenged the original order of the Deputy Collector as well as the order of the appellate authority by filing this petition.

#. Mr.Pahwa, learned advocate for the petitioner, argued that, on the relevant date, that is the date on which the matter was fixed for hearing, the petitioner could not remain present before the Deputy Collector as he was not aware about the date of such hearing. He submitted that, on the first date, representative of the petitioner was present, but he was not aware about the subsequent date on which the matter was adjourned which ultimately resulted into ex parte decision.

#. Mr.Desai, learned AGP submitted that, by way of two registered letters intimation was given to the petitioner, but the petitioner did not care to appear before the authority. Mr.Desai has relied upon the observations made in the order to the effect that, in spite of the notice being served upon the petitioner, the petitioner has not remained present. Mr.Pahwa on the other-hand submitted that the petitioner was not aware about the subsequent date given by the Deputy Collector and requested that, for the interest of justice, the matter may be sent back for fresh hearing.

#. Considering the facts and circumstances of the case, and considering the fact that, substantial amount is involved in the matter, in my view, the petitioner is required to be given one more opportunity to represent his case before the Deputy Collector. The matter is accordingly remanded to the Deputy Collector for fresh decision after giving opportunity of hearing to the petitioner. However, the petitioner is directed to pay the costs of of Rs.15000/- (Rupees Fifteen Thousand Only). In that view of the matter, the order at Annexure-A collectively is quashed and set aside. The matter is sent back to the Deputy Collector for taking fresh decision and fresh decision may be taken after hearing the petitioner. The amount of costs is to be deposited on or before 30.4.2002 before the Deputy Collector, Vadodara. After ensuring that the aforesaid amount is deposited by the petitioner, the Deputy Collector may rehear the matter and pass appropriate order in accordance with law on or before 30.6.2002. The

petitioner may remain personally present before the Deputy Collector for taking the date of hearing. In case, the petitioner fails to remain present at the time of hearing, it will be open for the Deputy Collector to take appropriate decision in accordance with law. It is also clarified that if the amount of costs as indicated above is not deposited, earlier order passed by the Deputy Collector shall stand as it is. The petition is accordingly allowed to the aforesaid extent. Rule is made absolute with costs as quantified above. Direct service is permitted.

(P.B.Majmudar,J)

(pathan)